

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JACQUELINE GRAY, et al.,)
)
Plaintiff(s),)
)
vs.) Case No. 4:07CV00881-ERW
)
CITY OF VALLEY PARK, MISSOURI,)
)
Defendant(s).)

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiffs' Motion to Consolidate Trial on the Merits with Hearing on Plaintiffs' Motion for a Preliminary Injunction [doc. #38].

I. BACKGROUND

Plaintiffs' filed suit on April 12, 2007, against the City of Valley Park (the "city") in St. Louis County Circuit Court, challenging two City Ordinances that were intended to eliminate the housing and hiring of illegal immigrants within the City. Specifically, the lawsuit challenges Ordinance Number 1721 ("the Landlord ordinance") and Ordinance Number 1722 ("the Employer Ordinance").¹ The case was removed from state court on May 1, 2007, and this Court subsequently denied a motion to remand filed by Plaintiffs. Before the case was removed from state court, Plaintiffs filed a Motion for Preliminary Injunction, which is currently pending before this Court. On June 14, 2007, Plaintiffs filed a motion to consolidate the hearing on Plaintiffs' Motion for Preliminary Injunction with the trial on the merits, and submitted a proposed time line

¹The Court was advised by Counsel for Defendant that the City had repealed the Landlord Ordinance, leaving only the Employer Ordinance. The parties shall advise the Court within five (5) days of the date of this Order as to the status of the ordinances in question.

for discovery, dispositive motions, and hearing. The Court will now address Plaintiffs' Motion to Consolidate.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 65(a)(2) provides: "Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application." Fed. R. Civ. P. 65(a)(2). The Eighth Circuit stated in *West Publishing Co. v. Mead Data Central Inc.*, that "the attention of the district courts in this Circuit is called to Fed. R. Civ. P. 65(a)(2), under which, in appropriate cases, those courts have discretion to combine the hearing on a motion for preliminary injunction with the trial on the merits. This procedure is a good one, and we wish to encourage it." 799 F.2d 1219, 1229 (8th Cir. 1986).

III. DISCUSSION

Plaintiffs request that this Court set the matter for a hearing in October, 2007. Plaintiffs argue that this will give enough time for discovery on issues that will be key to this Court making an informed decision on Plaintiffs' motion for a preliminary injunction, but will also serve to effect a speedy resolution of the case. Specifically, Plaintiffs assert that discovery is needed on four questions: 1) the exact wording of the operative City Ordinances; 2) purpose and motivation behind the passage of the Ordinances; 3) discriminatory effect of the Ordinances; and 4) the City's use of federal databases for verification of immigration status. Defendant does not object to a consolidation of the preliminary injunction hearing with the trial on the merits, however, it states that both could be accomplished in August, 2007, or early September, 2007.

The Court agrees that the preliminary injunction hearing should be combined with the trial on the merits. However, due to the discovery issues raised by Plaintiffs, as well as the work that

needs to be done to prepare for trial on the merits, the Court does not believe a date earlier than October is feasible, and the Defendant has failed to articulate how it would be harmed by this date. Therefore, the Court orders that the trial on the merits be consolidated with the preliminary injunction hearing, and that the parties shall appear before this Court on Friday, August 10, 2007, at 2:00 p.m., to discuss discovery deadlines and a date for the preliminary injunction hearing.

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Motion to Consolidate Trial on the Merits with Hearing on Motion for Preliminary Injunction [doc. #38] is **GRANTED**.

IT IS FURTHER ORDERED that the parties shall appear before this Court on August 10, 2007, at 2:00 p.m. for status conference.

IT IS FURTHER ORDERED that Defendant City of Valley Park will notify the Court within five (5) days of the date of this order of the status of the Valley Park Ordinances at issue in this suit.

Dated this 8th Day of August, 2007.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE